

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

TYLER MILLER,

Plaintiff,

v.

STEVE WATSON, *et al.*,

Defendants.

Case No. 3:18-cv-00562-SB

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Stacie F. Beckerman issued Findings and Recommendation in this case on February 12, 2019. ECF 51. Magistrate Judge Beckerman recommended the Court grant Bullard Law's motion to strike Miller's defamation claim (ECF 20). Magistrate Judge Beckerman also recommended the Court grant in part Dickerson and Salle's motion to dismiss (ECF 22) and dismiss with prejudice Miller's federal due process claim, but dismiss without prejudice Miller's defamation claim against Dickerson and Salle.

Under the Federal Magistrates Act (“Act”), the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”). Although in the absence of objections no review is required, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the Court review the magistrate judge’s recommendations for “clear error on the face of the record.”

Plaintiff timely filed an objection. ECF 56. Plaintiff argues that Plaintiff was entitled to discovery before consideration of Defendant’s anti-SLAPP motion. The Court has reviewed *de novo* those portions of Magistrate Judge Beckerman’s Findings and Recommendation to which Plaintiff has objected, as well as Defendants’ responses. The Court agrees with Magistrate Judge Beckerman’s reasoning and ADOPTS those portions of the Findings and Recommendation.

For those portions of Magistrate Judge Beckerman’s Findings and Recommendation to which neither party has objected, this Court follows the recommendation of the Advisory

Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

The Court **ADOPTS** Magistrate Judge Beckerman's Findings and Recommendation, ECF 51. The Court GRANTS Bullard Law's motion to strike Miller's defamation claim (ECF 20). The Court GRANTS IN PART Dickerson and Salle's motion to dismiss (ECF 22) and dismisses with prejudice Miller's federal due process claim. The Court dismisses without prejudice Miller's defamation claim against Dickerson and Salle.

IT IS SO ORDERED.

DATED this 25th day of April, 2019.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge